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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

GERALD ERWIN, individually and as trustee of
the JJJ Living Trust Dated June 13, 2008

Plaintiff,

v.

WELLS FARGO BANK, NA, SPECIALIZED
LOAN SERVICING, LLC; US BANK
NATIONAL ASSOCIATION, AS TRUSTEE FOR
CITIGROUP MORTGAGE LOAN TRUST, INC.,
MORTGAGE PASS-THROUGH CERTIFICATES
SERIES 2007-AR5; and Does I-X, inclusive,

Defendants

Case No.: 2:23-cv-00319-ART-NJK

MOTION TO SUBSTITUTE PARTY

GERALD ERWIN, individually and as trustee of the JJJ Living Trust Dated June 13, 2008,
by and though Allison R. Schmidt, Esq., of Black & Wadhams hereby moves to substitute JUSTIN
ERWIN in place of and in stead of GERALD ERWIN, who passed away on July 7, 2023, pursuant
to FRCP 25.

POINTS AND AUTHORITIES

Plaintiff GERALD ERWIN died on July 7, 2023. Prior to his death, GERALD ERWIN
was the trustee of the JJJ Living Trust, Dated June 13, 2008, and brought claims, both individually
and in his capacity as trustee.

1 The parties resolved this matter through settlement just prior to GERALD ERWIN's death,
2 and anticipate proceeding with the settlement following Mr. Erwin's demise.

3 JUSTIN ERWIN is the son of GERALD ERWIN, and is identified in GERALD ERWIN's
4 will as the executor of GERALD ERWIN's estate. Similarly, Justin Erwin is the successor trustee
5 under the JJJ Living Trust Dated June 13, 2008. *See Exhibit B.* A Petition for Issuance of Letters
6 Testamentary on a Request for Order Shortening Time has been filed with the Clark County Probate
7 Court. *See Exhibit A.*

8
9 As it is necessary to substitute the parties, both under Rule 25 and in order to consummate
10 settlement in this matter, Plaintiff respectfully requests the substitution of Justin Erwin as Plaintiff,
11 both in his capacity of nominated executor of his father GERALD ERWIN's estate, and in his
12 capacity as successor trustee of the JJJ Living Trust.

13 Counsel for Wells Fargo, Jennifer McBee, Esq. has indicated that Wells Fargo does not
14 oppose the relief requested by this motion.

15
16 **CONCLUSION**

17 Based on the foregoing, Plaintiff requests that Justin Erwin be substituted as Plaintiff in
18 this matter, pursuant to FRCP 25.

19
20 DATED this 29th day of September, 2023.

21 BLACK & WADHAMS

22 *s/ Allison R. Schmidt*
23 Allison R. Schmidt (NV Bar No. 10743)
24 10777 West Twain Avenue, Suite 300
25 Las Vegas, NV 89135
26 Telephone: (702) 869-8801
27 *Counsel for Plaintiff*

28 IT IS SO ORDERED.
Dated: October 2, 2023

26
27 
28 Nancy J. Koppe
United States Magistrate Judge